

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

CIRCLE CENTRE MALL LLC, SIMON)
PROPERTY GROUP, INC. AND XL)
INSURANCE AMERICA, INC., as subrogee of)
Circle Centre Mall, LLC and Simon Property)
Group, Inc.)

No: 1:14-CV-1160JMS-MJD

Plaintiffs,)

v.)

ZURICH AMERICAN INSURANCE)
COMPANY and OLD REPUBLIC)
INSURANCE COMPANY,)

Defendants.)

JOINT JURISDICTIONAL STATEMENT

Defendant Zurich American Insurance Company (“Zurich”), by and through its attorneys, Thomas Schultz and Charles S. Smith of Schultz & Pogue, LLP and Brian O’Gallagher and Tara McTague of Cremer, Spina, Shaughnessy, Jansen & Siegert, LLC, and Defendant Old Republic Insurance Company, by and through its attorney Stephen S. Muhich of Dykema Gossett PLLC, pursuant to this Court’s Order dated July 15, 2014, submits the following Joint Jurisdictional Statement and state as follows:

1. Federal district courts have diversity jurisdiction over civil actions in which the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the parties are citizens of different states. 28 U.S.C. § 1332.

2. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

3. The existence of diversity jurisdiction is determined at (1) the time the state court action is filed; and (2) the time of removal. *Kite v. Richard Wolf Med. Instruments Corp.*, 761 F. Supp. 597, 600 (S.D. Ind. 1989).

4. Defendant Zurich American Insurance Company (“Zurich”), for purposes of diversity jurisdiction under 28 U.S.C. § 1332, was at all relevant times a citizen of Illinois (where it maintains its principal place of business) and New York (the state of its incorporation).

5. Defendant Old Republic Insurance Company (“Old Republic”), for purposes of diversity jurisdiction under 28 U.S.C. § 1332, was at all relevant times a citizen of Pennsylvania (the state of its formation and where it maintains its principal place of business).

6. Plaintiff XL Insurance America, Inc. (“XL”), for purposes of diversity jurisdiction under 28 U.S.C. § 1332, was at all relevant times a citizen of Connecticut (where it maintains its principal place of business) and Delaware (the state of its incorporation).

7. Plaintiff Simon Property Group, Inc. (“SPG”), for purposes of diversity jurisdiction under 28 U.S.C. § 1332, was at all relevant times a citizen of Indiana (where it maintains its principal place of business) and Delaware (the state of its incorporation).

8. After Zurich filed its Notice of Removal and after this Court issued its July 15, 2014 Order requiring the parties to submit a Jurisdictional Statement, Plaintiff Circle Centre Mall, LLC’s (“CCM”) counsel represented to Zurich’s counsel that Circle Centre Development Company is the sole member of CCM, that Circle Centre Development Company is a general partnership consisting of two partners – Simon Property Group, L.P. (a Delaware limited partnership) and Circle Centre Partners Limited Partnership (a Delaware limited partnership), and that Simon Property Group, L.P. purportedly has limited partners that are citizens of Illinois, New York and Pennsylvania. CCM’s counsel provided certain documents that he represents support his contention that the purported limited partners of Simon Property Group, L.P. defeat complete diversity.

9. Based on the information that Zurich has been able to verify by public records to

this point, Circle Centre Development Company Limited Partnership was a limited partnership formed under the laws of Indiana (and principally located at 115 West Washington Street, Indianapolis, Indiana) that was cancelled on or about May 2, 1994.¹ Additionally, based on records maintained by the Indiana Secretary of State, it appears that legal name of Circle Centre Development Company Limited Partnership was changed at some point to Circle Simon Developers Limited Partnership. Zurich is unable to confirm and/or verify by public record that Circle Centre Development Company is an active and existing business entity. Zurich is unable to confirm and/or verify by public record that Simon Property Group, L.P. and Circle Centre Partners Limited Partnership are the current partners of Circle Centre Development Company (to the extent it is an active and existing business entity). Zurich is unable to confirm and/or verify by public record that Simon Property Group, L.P. has limited partners that are citizens of Illinois, New York or Pennsylvania. Therefore, Zurich does not concede that Circle Centre Development Company is an active business entity that is still in existence; that, to the extent Circle Centre Development Company is an active and existing business entity, Simon Property Group, L.P. and Circle Centre Partners Limited Partnership are the current partners of Circle Centre Development Company; that the purported limited partners of Simon Property Group, L.P. defeat complete diversity; or that CCM's citizenship is not completely diverse from all other parties in this matter.

Respectfully submitted,

/s/Charles S. Smith

Thomas Schultz, #11670-49

Charles S. Smith, #23148-49

Attorneys for Defendant Zurich American
Insurance Company

¹ The records maintained online by the Indiana Secretary of State for Circle Centre Development Company Limited Partnership can be found at https://secure.in.gov/sos/online_corps/view_details.aspx?guid=7543CD4F-B85A-489B-9B35-160C7056A697. Attached hereto as Exhibit A are copies of records maintained online by the Indiana Secretary of State for Circle Centre Development Company Limited Partnership, which were obtained on July 23, 2014.

/s/Stephen S. Muhich (per permission)
Stephen S. Muhich
Dykema Gossett PLLC
Attorney for Defendant Old Republic
Insurance Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on **July 24, 2014**, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system.

/s/Charles S. Smith

Thomas Schultz
Charles S. Smith
SCHULTZ & POGUE, LLP
520 Indiana Avenue
Indianapolis, IN 46202
(317) 262-1000
(317) 262-9000 Facsimile
32-772/#317945.doc